

2004 Report on the State Bar of California Discipline System



**The State Bar of California
April 2005**

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INTRODUCTION

The State Bar of California (State Bar) has been in existence since 1927 as a non-profit public corporation and as the administrative arm of the California Supreme Court in matters involving the admission, regulation and discipline of attorneys.

The State Bar is an integrated bar: all lawyers practicing in California must be active members. As of December 31, 2004, the number of active attorneys in California is more than 150,000, making the State Bar the largest integrated state bar in the nation.

The State Bar is governed by a Board of Governors, which consists of 22 members and the President of the State Bar. Fifteen are lawyers elected by members of the State Bar. The Board of Directors of the California Young Lawyers Association (CYLA) elects a 16th lawyer.

Since 1977, the State Bar has operated with increased involvement by the public. Beginning that year, six "public," non-lawyer members were appointed to the Board of Governors - four by California's Governor, one by the state Senate Committee on Rules and one by the Speaker of the Assembly.

One of the most important functions of the State Bar is to protect the public, courts and the legal profession from lawyers who fail to adhere to their professional responsibilities. Most of the 2004 annual membership fee of \$390 supports the State Bar's public protection programs. In 2004, General Fund expenditures totaled \$48,374,000, which included both program costs and administrative support. Of this amount, \$39,941,000 was expended directly on Discipline programs.

As the following pages address in more detail, the units of the State Bar that contribute to the important function of discipline or, more broadly, public protection are:

Office of the Chief Trial Counsel (OCTC): is responsible for the receipt, investigation, and prosecution of complaints against California attorneys.

State Bar Court (SBC): serves as the administrative arm of the California Supreme Court in the adjudication of disciplinary and regulatory matters involving California attorneys.

Client Security Fund (CSF): reimburses victims for losses due to attorney theft or acts equivalent to theft.

Mandatory Fee Arbitration: administers a statewide program for the arbitration of fee disputes between attorneys and their clients.

Professional Competence: assists the State Bar's ongoing efforts to improve the quality of legal services by maintaining and enhancing the professional standards of California lawyers through a broad array of activities, such as recommending new and amended ethics rules and providing an ethics hotline telephone research service for attorneys.

Office of Certification: develops standards for certification and oversight of non-disciplinary regulatory programs relating to the practice of law and administers such programs.

Education: offers hundreds of classes, seminars and workshops to attorneys annually to help them meet MCLE requirements, making The State Bar one of the largest Minimum Continuing Legal Education (MCLE) providers in the state.

OFFICE OF THE CHIEF TRIAL COUNSEL

The State Bar Board of Governors, through its Regulation, Admissions and Discipline Oversight Committee, has oversight responsibility for the State Bar's disciplinary activities. The Chief Trial Counsel, who reports directly to this Board Committee pursuant to statute, is responsible for the overall structure, goals and management of OCTC. The various disciplinary units within the Office (Intake, Investigations and Trials) screen, review, analyze, investigate and prosecute allegations of attorney misconduct.

The Intake Unit receives allegations of attorney misconduct made by the consumer. The unit also receives statutorily mandated reports about attorneys, including reports of criminal convictions, sanctions, contempt and judgments for fraud, misrepresentation and breach of fiduciary duty. The Intake Unit is generally the initial contact point through which a member of the public initiates a complaint against an attorney, or determines whether a disciplinary complaint is appropriate. The vast majority of these initial contacts are made through the office's toll-free 1-800 telephone line (1-800-843-9053). During the year 2004, 89,823 calls were received at this number.

An extensive phone tree guides callers to information to address their specific concerns or issues. Callers hear pre-recorded messages and receive answers to the most frequently asked questions. Callers also may order complaint forms without speaking directly to staff, freeing staff to respond to callers with more complex issues. The phone tree is available in both English and Spanish. The Office of the Chief Trial Counsel also has on call staff that speak Spanish, Korean, Tagalog, Russian, Hungarian, Cantonese and Mandarin for callers who need assistance in those languages. Translators can be arranged for complainants with other language needs. The Office of the Chief Trial Counsel provides these translation services at no charge to complainants to assist with spoken and written communications.

The State Bar's web site, <http://www.calbar.ca.gov>, contains extensive information on the attorney discipline system in California and provides the attorney complaint form digitally for those who wish to download it.

Experienced attorneys in the Intake Unit conduct initial evaluations of all matters entering the system. They categorize the complainants' initial allegations of misconduct into eight areas. Professional investigators in the Investigations Unit receive and investigate priority cases and reportable actions forwarded from Intake. The Investigation Unit forwards those matters worthy of prosecution to the Trials Unit.

Attorneys, the courts, financial institutions and insurance companies have a statutory duty to report certain specific information to the State Bar. In particular, (1) attorneys report, among other things, lawsuits filed against them, criminal convictions, and professional misconduct in another jurisdiction; (2) financial institutions report insufficient funds activity involving an attorney client trust account; (3) insurance companies report malpractice claims and filings and awards; and (4) courts report judicial sanctions over \$1,000, except for failure to make discovery.

If a member is charged with a felony or misdemeanor, the prosecuting agency or the clerk of the court will generally advise the State Bar. OCTC monitors the criminal matter to final disposition, and if a conviction occurs, OCTC evaluates for forwarding to the State Bar Court as appropriate. If the crime involves moral turpitude, or is a felony, the State Bar Court may issue an order placing the member on interim suspension or make a recommendation to the California Supreme Court that the member be summarily disbarred.

The probation monitoring function of the State Bar has been housed at different times with both the State Bar Court and with OCTC. In 2004, it was part of the State Bar Court where four deputies, under the supervision of an attorney, opened and maintained files on probationer members with conditions including: filing quarterly reports, attending Ethics and/or Client Trust Accounting School, making restitution, and complying with Rule 955 of the Rules of Court. As appropriate, the probation monitors referred violations to the Trials Unit.

Expanded Hotline Operation

On March 1, 2004, the hours of operation for the Office of the Chief Trial Counsel's (OCTC) complaint hotline were expanded from four to eight hours per day. The hours of operation for the hotline had been limited to four hours per day since OCTC returned to full operation after the near complete shutdown of the discipline system from June of 1998 to March of 1999. In addition, in January 2004, the number of telephone trunk lines feeding the complaint hotline was increased from 8 to 12. This has resulted in significantly improved customer service and a reduction in the complaint line busy rate to less than one percent. Complaint analysts now handle nearly 50% more telephone calls with consumers per month.

Audit and Review Unit

In August of 2004, OCTC created a new unit called "Audit and Review" to handle requests for review or "second look" by complainants seeking a review of a decision by OCTC to close their complaint without disciplinary action. Audit and Review also handles OCTC's twice-yearly random audit of files (a quality assurance measure) and other specifically designated audit and quality assurance measures. Having a specialized unit has helped to standardize audit procedures, provide greater uniformity in the results, as well as to provide an additional degree of independence to the audit function.

Mediation Program

OCTC's mediation program for low-level offenses (an alternative to disciplinary action for matters such as failing to return a client's file or telephone calls) continued to expand in 2004. Sacramento, Solano and San Mateo counties were added to the program in mid-2004. Later in the year, San Diego and Orange counties were added, bringing the total number of counties serviced by the program to 10. In the Northern California program 45 cases were referred to mediation in 2004. In Southern California 169 cases were referred to mediation. The settlement rate at mediation is more than 80%. Feedback on the program from both consumers and attorneys has been very positive.

Significant Trends in 2004

Of particular note, the number of new cases (Notices of Disciplinary Charges) filed in State Bar Court in 2004 showed a dramatic increase over 2003. The number of Notices of Disciplinary Charges filed was 398 (including 766 matters), the second highest year since returning from the shutdown in 1998 and an increase of 34% over 2003.

In addition, the office also filed 217 stipulated disciplinary recommendations (including 452 matters). This is the second highest number of stipulated disciplinary recommendations filed at any time during the ten-year period from 1994 through 2004. It represents a 41% increase over 2003.

The number of inquiries and reportable actions sent to Investigations in 2004 was 4,278. This number represents a 23% increase over 2003.

At the end of 2004, the investigations backlog was at 402 cases. This represent a 26% reduction in the number of backlog cases as compared to the number of backlog cases at the end of 2003. An investigation case becomes a backlog case if it is more than 6 months old, or more than 12 months old for a case designated complex and the investigation has not been completed.

Alternative Discipline Program (ADP), formerly the State Bar Court's Program for Attorneys with Substance Abuse or Mental Health Issues

The Alternative Discipline Program (ADP), formerly known as the State Bar Court's Program for Respondents with Substance Abuse and/or Mental Health Issues, completed its second full year of operation in 2004. A significant achievement for both OCTC and the State Bar Court, attorneys with substance abuse or mental health issues who are facing disciplinary charges may be referred to the ADP where their cases are handled with the dual objectives of public protection and rehabilitation. Experience is beginning to show that respondents in the discipline system who participate in a Lawyers Assistance Program (LAP) structured recovery program are honoring their obligations to their clients and to the profession. Restitution is being paid, ethics education is being completed, and most important, there has been virtually no recidivism to date.

OCTC no longer resolves discipline cases involving an impaired attorney without factoring testing, monitoring and treatment into the ultimate discipline, if the attorney is allowed to continue to practice law.

In 2004, 64 attorneys were referred to the ADP (52 in 2003), 68 attorneys were being evaluated for the program, and 32 attorneys signed stipulations and contracts and are fully participating in the program. This number is in addition to the 31 attorneys that signed stipulations and contracts and began participating in the program in 2003.

A referral to ADP begins the process. A referral may be either pre-notice or post-notice depending on the situation. As such, a pre-notice referral may take the place of a filing of a Notice of Disciplinary Charges. Following the referral, the respondent attorney is evaluated by outside professionals for participation in the program. If the attorney has a substance abuse or mental health issue that is causally related to the misconduct, the respondent attorney may be accepted into the ADP, at which point the respondent attorney will sign a contract and stipulation as to facts and culpability. The contract will require participation in the State Bar's LAP and require compliance with treatment conditions as determined by the evaluation. The ADP judge will issue a decision that includes both a high and low disciplinary recommendation. A recommendation by the State Bar Court for imposition of the reduced or low-end discipline will depend upon successful completion of the ADP imposed and monitored program.

Ethics School/Client Trust Accounting School

Disciplined attorneys are required to attend a day-long course in ethics covering the Rules of Professional Conduct and selected provisions of the State Bar Act. The course identifies issues and solutions to common ethical situations faced by practitioners. Instructors are experienced prosecutors who interact with the attorneys in the class, discussing such topics as the attorney-client relationship, fees and fee agreements, the scope of employment, performing competently, duties to clients during the relationship and upon ending the attorney-client relationship, etc. A separate three-hour course that focuses specifically on managing a client trust account and related duties also is offered. This course, called Client Trust Accounting School, is required of attorneys who are disciplined for trust account violations. In recent years, both courses have been made available to members who have not been disciplined to assist them in avoiding the most common ethical mistakes. During 2004, 14 courses each of Ethics School and Client Trust Accounting School were offered. Two hundred and sixty-seven attorneys completed Ethics School, and 101 attorneys completed Client Trust Accounting School.

The following charts detail the workload and the output of the Office of the Chief Trial Counsel for the year 2004:

Complaint Intake: Basic Data					
	2000	2001	2002	2003	2004
Total phone calls received	109,259	110,120	110,343	116,800*	89,823
Inquiries	10,846	11,138	11,784	11,947	12,383
Inquiries/reportable actions advanced to complaint status (sent to Investigations)	4,033	3,929	4,716	3,478	4,278
Average pendency for resolved inquiries (days)	62	64	49	48	47
Average pendency for opened inquiries (days)	32	33	36	39	41
* The telephone tree handled an estimated 30,000 calls.					

Allegation Categories By Percent					
	2000	2001	2002	2003	2004
Performance	35%	34%	34%	38%	35%
Duties to clients	15%	17%	15%	15%	16%
Handling of funds	12%	12%	13%	8%	10%
Personal behavior	10%	11%	13%	14%	12%
Interference with justice	10%	10%	10%	12%	9%
Fees	9%	10%	10%	11%	12%
Duties to State Bar	6%	5%	4%	0	4%
Professional employment	1%	1%	1%	1%	1%
<u>TOTAL</u>	100%	100%	100%	100%	100%

Inquiry Resolution					
	2000	2001	2002	2003	2004
Alternative Dispute Resolution	0	0	27	73	149
Complaining witness' failure to cooperate	310	384	392	516	401
Criminal conviction complaint	316	633	612	758	944
Disbarment in separate matter	47	22	37	51	41
Duplicate complaint	116	100	156	119	77
Fee Arbitration matter	585	535	481	361	464
Inquiry advanced to investigation (not reportable actions)	2889	3089	3656	2969	3770
Insufficient facts/evidence	4838	5078	6796	6789	6356
Lack of jurisdiction	119	126	285	145	151
Matter resolved between complaining witness and respondent	210	207	233	222	280
Resigned charges pending	157	230	280	262	267
Other	1815	3652	1536	1313	1347
Total	11,402	14,056	14,491	13,578	14,247

Reportable Actions Reported by Banks, Courts, Insurers and Attorney Self Reports					
	2000	2001	2002	2003	2004
Banks	3595	2853	3229	2631	2651
Courts	152	108	156	118	120
Insurers	307	398	416	368	214
Attorneys-self reports	121	120	97	92	87
<u>TOTAL</u>	4175	3479	3898	3209	3072

Criminal Case Tracking Activity					
	2000	2001	2002	2003	2004
Received during year	266	204	278	290	368
Closed during year	206	314	423	284	304
Pending year end	478	392	263	274	348
Convictions transmitted to State Bar Court	92	92	89	85	74

Open Complaints at Year's End					
	2000	2001	2002	2003	2004
0-6 months	1017	1328	1312	1278	1316
7-9 months	389	306	279	185	156
10-12 months	224	252	138	127	77
13-21 months	320	330	95	214	71
21 months plus	263	147	119	53	66
Total Open	2213	2363	1943	1857	1686
Open more than 6 months	1196	1034	631	579	370
"Backlog" by statutory definition	1340	809	401	540	402
Average pendency for open complaints (days)	324	232	168	182	163
Average pendency for closed complaints (days)	268	268	210	202	197

Office of the Chief Trial Counsel Dispositions					
	2000	2001	2002	2003	2004
Warning Letter	0	0	69	1	331
Directional Letter	0	0	0	172	0
Resource Letter	401	117	98	19	16
Agreement in Lieu of Discipline	35	76	39	36	42
Dismissal	2252	2216	2867	2205	3051
Termination	482	522	587	563	568
Resignation tendered with charges pending	93	102	88	86	82
Stipulated discipline filed	221	137	146	154	217
Notice of Disciplinary Charges filed	383	309	402	298	405*

* Contains 779 complaints – Case types included in filing counts are as follows:

"H" - Rule 1-110 violation (former Rule 9-101)

"O" - Original Matter

"J" - Other Jurisdiction 6049.1

"N" - Rule 955 Violation

Other Litigation Matters – Received **					
	2000	2001	2002	2003	2004
Probation revocation matters	129	104	74	61	0*
Rule 9-101 violation matters	26	48	29	18	18
B & P Code Section 6049.1 matters	39	31	23	18	16
Moral character matters	6	9	7	8	11
Rule 955 violation matters	97	76	75	65	76
Reinstatement matters	17	12	16	21	18
B & P Code Section 6007(b)(1) matters	0	1	0	1	1
B & P Code Section 6007(b)(2) matters	3	0	6	4	0
B & P Code Section 6007(b)(3) matters	3	13	3	3	14
B & P Code Section 6007(b)(2) & (3) - reactive matters	1	1	2	5	3
B & P Code Section 6007(c) matters	7	8	23	16	2
Standard 1.4(c)(ii) matters	6	9	13	13	17
<u>TOTAL</u>	334	312	271	233	176
<p>* All “PM” matters are handled by the Office of Probation which reports to The State Bar Court’s Administrative Officer</p> <p>** This table shows number of cases received in the Office of the Chief Trial Counsel in 2004. The Court is reporting the number of these case types that were filed in 2004. As such the numbers reported by OCTC and State Bar Court may be different.</p>					

STATE BAR COURT

The State Bar Court serves as the administrative arm of the California Supreme Court in the adjudication of disciplinary and regulatory matters involving California attorneys. It is the mission of the State Bar Court to hear and decide cases fairly, correctly and efficiently for the protection of the public, the courts and the legal profession. In 2004, the State Bar Court started its 16th year as the nation's first full-time attorney disciplinary and regulatory court.

The State Bar Court has authority to impose public and private reprovls upon California attorneys who are found to have violated the disciplinary provisions of the California State Bar Act or the Rules of Professional Conduct approved by the California Supreme Court. In cases involving the imposition of more serious degrees of discipline, such as disbarment or suspension, the State Bar Court makes findings of fact, conclusions of law and a recommendation for discipline that is transmitted to the California Supreme Court for review and adoption. In the vast majority of cases, the Supreme Court accepts and imposes the State Bar Court's recommendation. However, the Supreme Court may, in its discretion, modify the State Bar Court's factual findings, legal conclusions or recommended discipline or, in the alternative, return the matter to the State Bar Court for further hearing or other action.

The State Bar Court has two venues (San Francisco and Los Angeles) and is composed of two departments—the Hearing Department and the Review Department. The Hearing Department is the trial level of the State Bar Court and is comprised of five full-time judges (three in Los Angeles and two in San Francisco). The Supreme Court appoints two of the hearing judges. The Governor, Speaker of the Assembly and the Senate Committee on Rules each appoint one hearing judge.

The Review Department is the appellate level of the State Bar Court. The three-member Review Department consists of the Presiding Judge and two review judges. The Supreme Court appoints all of the judges of the Review Department.

One new Los Angeles-based hearing judge took office on December 20, 2004. The Speaker of the Assembly, Fabian Nunez, appointed the Honorable Richard A. Platel. Judge Platel replaces the Honorable Alban I. Niles, who retired from the Court in February 2004. Judge Platel's term expires on November 1, 2008.

Three of the sitting judges were reappointed in 2004. The Honorable JoAnn M. Remke was reappointed as a Hearing Judge (San Francisco) by the Senate Committee on Rules, and the Honorable Richard A. Honn was reappointed as a Hearing Judge (Los Angeles) by the Supreme Court. The Supreme Court also reappointed the Honorable Judith Epstein as a Review Department Judge. All of the reappointed judges' terms will expire on November 1, 2010.

The number of new cases filed in 2004 increased significantly from 2003 but have not reached the levels attained in 2002. In 2004, 913 matters were filed in the State Bar Court. This represents an 11% increase from filings in 2003 (821), but is 3% below the filings in 2002, when 945 matters were filed.

The number of matters disposed by the State Bar Court and the Supreme Court also increased in 2004 from 2003, bringing them closer to 2002 levels. In 2004, 867 matters were finally disposed of by the Supreme Court and the State Bar Court, compared to 891 matters disposed of in 2002 (a 3% decrease) and 798 in 2003 (a 9% increase).

The State Bar Court's Alternative Discipline Program (formerly referred to as the Pilot Program for Respondents with Mental Health and Substance Abuse Issues) saw increased participation in 2004. The State Bar Court has implemented a three-level system for identifying respondents' participation in the program. This three-level system helps the court staff identify where particular respondents are in the process of being admitted into the Alternative Discipline Program. The three levels are: Referral (when an attorney is referred to the Alternative

Discipline Program), Evaluation (when the respondent is in the process of being evaluated by the Lawyer Assistance Program) and full Participation (once the respondent's treatment program has been designed and he/she agrees in writing to comply with the requirements of the Lawyer Assistance Program and the State Bar Court's Alternative Discipline Program). At the beginning of 2004, 63 respondents were involved in the Alternative Discipline Program at the various levels, with 25 respondents designated as full Participants. By the end of the year, these figures increased significantly. At the end of 2004, 108 respondents were involved in the Program at some level, with 53 attorneys fully participating in the Program.

During 2004, the State Bar Court achieved the following key goals and objectives:

- Coordinated the recruitment and evaluation process for the Supreme Court's Applicant Evaluation and Nomination Committee. The Committee reviewed applications for four judicial positions. The results of their efforts are contained in the body of this report;
- Conducted judicial training for one new Hearing Judge in Los Angeles;
- Adopted court performance standards. Based on standards developed by the National Center for State Courts, these standards were adopted during the fall of 2004. The standards will provide an ongoing, 360-degree view of the activities of the State Bar Court;
- Maintained the average pendency of cases in the State Bar Court Hearing Department at less than six months;
- Continued publication of the California State Bar Court Reporter containing the published opinions of the State Bar Court Review Department in attorney disciplinary and regulatory proceedings.

The following charts reflect the numbers of cases filed in the State Bar Court during 2004, as compared to previous years, along with all interim and final dispositions issued by the State Bar Court and the California Supreme Court during 2004:

State Bar Court Summary Figures

Detailed figures are provided on the following pages

CASES FILED IN THE STATE BAR COURT	2000	2001	2002	2003	2004
Disciplinary Matters	762	745	772	664	750
Regulatory Matters	141	172	173	157	163
TOTAL	903	917	945	821	913
STATE BAR COURT INTERIM DISPOSITIONS*					
Disciplinary Matters	200	175	454	521	545
Regulatory Matters	155	139	5	0	1
TOTAL	355	314	459	521	546

STATE BAR COURT FINAL DISPOSITIONS					
Disciplinary Matters	335	457	347	282	331
Regulatory Matters	141	130	86	77	82
TOTAL	441	587	433	359	413

SUPREME COURT INTERIM DISPOSITIONS					
Disciplinary Matters	4	1	0	7	2
Regulatory Matters	0	0	0	1	0
TOTAL	4	1	0	8	2

SUPREME COURT FINAL DISPOSITIONS					
Disciplinary Matters	521	569	455	349	370
Regulatory Matters	5	7	3	90	84
TOTAL	526	576	458	439	454

* = The State Bar Court issues various orders that affect the ability of an attorney to practice law (e.g., transfer to inactive enrollment, or interim suspension upon conviction of certain crimes), or that relate to the powers of the Supreme Court that have been delegated to the State Bar Court (e.g., modify probation conditions, or extend the time for compliance with the professional responsibility examination).

CASES FILED IN THE STATE BAR COURT					
Disciplinary Matters					
	2000	2001	2002	2003	2004
Original matters	547	534	556	456	538
Conviction referral	96	94	89	90	92
Rule 955 violation	53	59	65	46	52
Rule 1-110 violation (former Rule 9-101)	17	16	17	18	15
Probation Revocation	30	28	22	37	36
Other Jurisdiction 6049.1	19	14	23	17	17
Subtotals	762	745	772	664	750

Regulatory Matters					
Arbitration Enforcement	4	18	19	12	15
Resignation with charges pending	91	101	88	77	82
Inactive enrollment 6007 (c), (b)(1), (b)(2) or (b)(3)	15	20	20	17	13
Interim remedies 6007(h)	0	0	2	2	0
Reactive pursuant 6007 (b)(1), (b)(2), (b)(3), or (c)	1	1	2	3	3
Reactive Arbitration Enforcement	0	2	3	3	1
Relief from Actual Suspension [Standard 1.4(c)(ii)]	6	9	14	13	17

CASES FILED IN THE STATE BAR COURT (continued)					
Reinstatement	17	12	17	21	18
Moral Character	6	9	8	8	11
Legal Specialization	1	0	0	1	1
Contempt Proceedings	0	0	0	0	2
Subtotals	141	172	173	157	163
Total Cases Filed	903	917	945	821	913

STATE BAR COURT INTERIM DISPOSITIONS					
Disciplinary Matters					
	2000	2001	2002	2003	2004
Augment to include discipline	17	13	18	19	15
Conviction referral	73	74	72	60	63
Deny Interlocutory Review	0	0	0	0	1
Grant stay/temporary stay of suspension/interim suspension	19	7	17	11	3
Interim Suspension/Referral	50	39	34	37	40
Extend time to pass professional responsibility examination*	0	0	0	30	30
Extend Condition of Reproval	0	0	0	1	0
Extent Probation	0	0	0	1	10
Suspension/failure to pass professional responsibility examination	40	42	44	26	24
Modify Probation	0	0	0	2	10
Modify Order/Stipulation*	0	0	0	83	62
Remand for hearing	1	0	1	0	0
Terminate Suspension/Interim Suspension*	0	0	5	26	15
Retransfer to active pursuant to 6007(c) or (e)*	0	0	17	15	16
Rejected Stipulation	0	0	36	22	16
Transfer to Inactive pursuant to 6007(c)*, (d) or (e)*	0	0	210	181	165
Alternative Discipline Program Decision**	--	--	--	--	64
Restrict Practice 6007(h)	0	0	0	1	0
Reversal of Order	0	0	0	1	0
Vacate previous order	0	0	0	5	11
Subtotals	200	175	454	521	545

Regulatory Matters					
Modify Decision	0	0	0	0	1
Restrict Practice 6007(h)	3	3	5	0	0
Transfer Inactive 6007(d)***	15	5	0	0	0
Transfer Inactive 6007(e)***	137	131	0	0	0
Subtotals	155	139	5	0	1

TOTALS	355	314	459	521	546
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* Effective 2002, these items were re-categorized as Interim Dispositions

** 2004 was the first year for tracking Alternative Discipline Program decisions (formerly known as the State Bar Court's Program for Respondents with Substance Abuse and/or Mental Health Issues.)

*** Effective 2002, these items were re-categorized as Interim Dispositions in Disciplinary Matters.

STATE BAR COURT FINAL DISPOSITIONS					
Disciplinary Dispositions					
	2000	2001	2002	2003	2004
Admonition	0	0	0	1	0
Deny other petitions	0	0	0	2	1
Dismissal	45	42	35	44	52
Extend condition of reproof	0	0	0	0	0
Extend probation	3	4	2	0	0
Extend time to pass professional responsibility examination*	18	31	26	0	0
Modify order, decision or stipulation*	59	76	68	0	0
Modify probation	1	1	4	0	0
Private reproof, Private reproof w/conditions	74	122	62	69	106
Public reproof/Public reproof w/conditions	44	50	44	61	65
Set aside dismissal	0	0	0	0	0
Terminate conviction proceeding	0	0	0	0	2
Terminate interim suspension*	3	4	0	0	0
Termination (death, disbarment, resignation)	73	122	100	104	105
Vacate previous order	15	5	6	0	0
Withdrawn	0	0	0	1	0
Subtotals	335	457	347	282	331

* Effective 2004, these items were re-categorized as Interim Dispositions

STATE BAR COURT FINAL DISPOSITONS					
Regulatory Dispositions					
	2000	2001	2002	2003	2004
Decline relief from actual suspension [1.4(c)(ii)]	1	0	1	2	2
Decline transfer 6007 (b) or (c)	0	0	2	1	0
Decline transfer Arbitration Enforcement	0	0	1	2	1
Deny admission	1	2	1	4	6
Deny petition/application	0	0	4	0	3
Deny reinstatement	4	5	3	3	3
Dismissal	6	7	9	7	16
Grant admission	1	0	3	1	0
Grant trust fund	0	0	0	0	0
Modify Decision/Stipulation/Order	1	3	2	0	1
Restrict practice - 6007(h)	0	0	0	2	0
Retransfer active-Arbitration Enforcement	0	2	2	4	1
Relief from Actual Suspension [1.4(c)(ii)]	6	6	5	12	8
Retransfer active 6007(b), (c), (d), or (e)	21	30	2	2	4
Terminate moral character proceeding	0	0	0	0	1
Termination (death, resignation)	0	1	5	3	2
Transfer inactive-Arbitration Enforcement	2	9	14	10	5
Transfer inactive 6007(b), (c)*, (d) or (e)	93	59	14	13	11
Transmit Final	0	0	0	0	2
Withdrawn	5	6	18	11	16
Subtotals	141	130	86	77	82
TOTALS	476	587	433	359	413

* Effective 2002, some entries of this type have been re-categorized as Interim Disciplinary Dispositions

CALIFORNIA SUPREME COURT INTERIM DISPOSITIONS					
Disciplinary Dispositions					
	2000	2001	2002	2003	2004
Grant writ of review	0	0	0	0	0
Remand for Hearing	4	1	0	0	0
Extend Probation	0	0	0	2	0
Modify Probation	0	0	0	3	0
Modify Order	0	0	0	1	0
Vacate Previous Order	0	0	0	1	2
Subtotals	4	1	0	7	2

Regulatory Dispositions					
Granted writ of review	0	0	0	0	0
Remand for Hearing	0	0	0	0	0
Modify Order	0	0	0	1	0
Subtotals	0	0	0	1	0
TOTALS	4	1	0	8	2

CALIFORNIA SUPREME COURT FINAL DISPOSITIONS					
Disciplinary Dispositions					
	2000	2001	2002	2003	2004
Disbarment	79	47	59	63	52
Summary Disbarment	3	8	2	3	6
Resignation with charges pending*	89	100	86	0	0
Dismissal	8	1	1	2	5
Early Termination of Probation	0	3	0	0	0
Extend probation	3	3	6	1	1
Modify order	0	0	1	0	1
Probation - no actual suspension	0	0	0	0	2
Revoke probation/actual suspension	14	13	10	7	18
Revoke probation/Stayed/Actual suspension	0	1	2	4	4
Suspension actual (with or without probation)	11	10	36	6	2

CALIFORNIA SUPREME COURT FINAL DISPOSITIONS					
Disciplinary Dispositions					
	2000	2001	2002	2003	2004
Suspension stayed/some actual (with or without probation)	212	276	190	202	196
Suspension stayed (with conditions or probation)	85	87	59	58	82
Suspension with conditions	17	13	1	2	1
Termination (death, disbarment, resignation)	0	4	2	1	1
Vacate Previous Order	0	3	0	0	0
Subtotals	521	569	455	349	371

Regulatory Dispositions					
Grant reinstatement	5	6	2	8	6
Termination-Disbarment	0	0	0	1	0
License to Practice Cancelled	0	1	1	0	0
Relief from Actual Suspension	0	0	0	0	1
Resignation with charges pending*	0	0	0	81	77
Subtotals	5	7	3	90	84
TOTALS	526	576	458	439	455

* Re-categorized as regulatory matters in 2003

CLIENT SECURITY FUND

In 1972, the Client Security Fund was established by State Bar-sponsored legislation in recognition that disciplinary measures, as well as civil and criminal proceedings, were often insufficient remedies to alleviate pecuniary losses caused by a lawyer's dishonest conduct in the practice of law. Thus, the Client Security Fund is designed as a remedy for legal consumers in addition to, but separate from, discipline. While the discipline system protects the public by disciplining and removing errant lawyers from the practice of law, the fund protects the public by focusing on individual victims. Since its inception, the fund has reimbursed applicants approximately \$62.4 million.

Financed by a \$35 annual assessment added to the membership dues paid by California lawyers, the Client Security Fund reimburses victims up to \$50,000 for losses due to attorney theft. While the number of dishonest lawyers is extremely low, the losses suffered by clients can be devastating. The fund is a cost-effective way of providing reimbursement to victims that is generally not available from any other source. Furthermore, the fund provides the legal profession with a unique opportunity to promote public confidence in the administration of justice and the integrity of the legal profession.

The State Bar's authority to operate the Client Security Fund is found under section 6140.5 of the Business and Professions Code. Section 6140.5(a) requires the Board of Governors to maintain a Client Security Fund. The fund is currently governed by the Rules of Procedure, Client Security Fund Matters, adopted by the Board on December 21, 1985. Under these Rules, a seven-member Commission, appointed by the Board, acts as the Board's delegate in administering the fund. The rules set forth the scope and purpose of the fund, the authority of the Commission, the requirements for reimbursement, the application process, and the confidentiality of fund records and judicial review of Commission decisions. An Applicant or Respondent lawyer may seek judicial review of a Final Decision of the Commission in the superior courts of the State under section 1094.5 of the Code of Civil Procedure.

The chart below reflects the 2004 activity of the fund:

Client Security Fund					
	2000	2001	2002	2003	2004
Applications Filed	1,049	1,114	1,300	1,200	1,321
Amounts Requested	\$10,929,128	\$11,900,739	\$14,166,217	\$12,221,905	\$13,681,482
Applications Processed	1,095	1,069	1,286	1,209	1,209
Applications Paid	595	609	782	701	746
Amounts Paid	\$3,673,850	\$4,435,212	\$6,597,057	\$5,859,620	\$5,681,455

OFFICE OF PROBATION

In the significant majority of cases, attorneys against whom discipline other than disbarment is imposed, are placed on probation by the California Supreme Court or by the State Bar Court. During the period of probation, which typically ranges from one to five years, the disciplined attorney is required to comply with specified probation conditions appropriate to his or her misconduct including, among others (a) the submission of written quarterly probation reports attesting to the attorney's compliance with the State Bar Act, Rules of Professional Conduct and specified probation conditions; (b) prompt response to State Bar inquiries about the attorney's probation compliance; (c) restitution of misappropriated funds or unearned attorney fees to clients; (d) abstinence from the use of alcohol or drugs and submission to random, periodic blood or urine testing; (e) completion of continuing legal education courses; (f) preparation and approval of a law office management plan; and (g) attendance at State Bar Ethics School. In many cases, the attorney is also required to take and pass the Multistate Professional Responsibility Examination. Attorneys who are disbarred, resign from the practice of law with disciplinary charges pending against them or are actually suspended from the practice of law for a period of 90 days or more also are required to comply with the provisions of rule 955 of the California Rules of Court, which requires the attorney to notify his or her clients of the attorney's disbarment, resignation or suspension and to provide the State Bar Court with an affidavit demonstrating his or her compliance with rule 955.

The disciplined attorney's compliance with these and other conditions is monitored by the State Bar's Office of Probation. Although it is separate and independent from the State Bar Court, during 2004 the Office of Probation reported directly to the Court's Administrative Officer.

The Office of Probation is authorized to bring a motion in the State Bar Court to revoke a disciplined attorney's probation in the event of a violation of the attorney's probation conditions. The Office of Probation may also negotiate and stipulate to modification of the attorney's probation in appropriate cases, subject to approval by a judge of the State Bar Court. In cases involving the attorney's failure to comply with rule 955 or the conditions attached to a public or private reproof, the Office of Probation may report the violations to the Office of the Chief Trial Counsel for disciplinary prosecution.

The chart below reflects the 2004 activity of the Office of Probation:

Number of Open Files as of 12/31/04	791
Files Opened in 2004	559
Files Closed in 2004	512
Probation Revocation Motions Filed	36
Referrals to OCTC for Prosecution	10

PROFESSIONAL COMPETENCE

The State Bar's ongoing Competency-based programs to maintain and improve the quality of legal services available in California are among its most important efforts in support of public protection and the effective administration of justice.

Rules of Professional Conduct

In 2003, the Legislature passed Assembly Bill No. 1101 ("AB 1101") modifying the statutory duty requiring attorneys to "maintain inviolate the confidence, and at every peril to himself or herself to preserve the secrets, of his or her client," contained in Business and Professions Code section 6068, subdivision (e).

The Legislature added paragraph (2) to section 6068, subdivision (e), stating in part that "an attorney may, but is not required to, reveal confidential information relating to the representation of a client to the extent that the attorney reasonably believes the disclosure is necessary to prevent a criminal act that the attorney reasonably believes is likely to result in death of, or substantial bodily harm to, an individual." The amendment to section 6068 was given an operative date of July 1, 2004. The Legislature also amended Evidence Code section 956.6 to conform the evidentiary standard to the amended statutory duty of confidentiality.

In an uncodified portion of AB 1101, section 3, the Legislature invited the State Bar, in consultation with the Supreme Court, to establish a special task force to study and formulate recommendations for a Rule of Professional Conduct addressing attorney conduct issues related to the implementation of the amended provisions. The State Bar President appointed a 21-member task force comprised of lawyers and public members to carry out the study.

In 2004, the task force, chaired by Professor Kevin E. Mohr of Western State University College of Law, completed its work and presented proposed new rule 3-100 (titled "Confidential Information of a Client") of the Rules of Professional Conduct to the Board of Governors for adoption. Following adoption by the Board of Governors on May 22, 2004, the Supreme Court unanimously approved proposed new rule 3-100 with an operative date of July 1, 2004. The Supreme Court made minor modifications to two of the discussion sections in the rule but otherwise accepted the State Bar's recommendation.

In connection with the State Bar's October 2004 Annual Meeting, an in-depth educational program presented by members of the task force provided an opportunity to learn about the statutory changes and new rule 3-100. The program was co-sponsored by the State Bar Family Law Section and the Office of Professional Competence.

The Commission for the Revision of the Rules of Professional Conduct

In addition to the above rule amendment from the Legislature, the State Bar's Commission for the Revision of the Rules of Professional Conduct ("the Commission") continued its multi-year project to conduct a comprehensive review of the State Bar's ethics rules in light of developments over the past 10 years and current trends nationally. The specific charge of the commission is as follows:

"The Commission is to evaluate the existing California Rules of Professional Conduct in their entirety considering developments in the attorney professional responsibility field since the last comprehensive revision of the rules occurred in 1989 and 1992. In this regard, the commission is to consider, along with judicial and statutory developments, the Final Report and Recommendations of the ABA Ethics 2000 Commission, the American Law Institute's Restatement of the Law Third, The Law Governing Lawyers, as well as other authorities relevant to the development of professional responsibility standards. The Commission is specifically charged to also consider the work that has occurred at the local, state and national level with respect to multidisciplinary practice, multijurisdictional practice, court facilitated propria persona assistance, discrete task representation and other subjects that have a substantial impact upon the development of professional responsibility standards.

The Commission is to develop proposed amendments to the California Rules that:

1. Facilitate compliance with and enforcement of the rules by eliminating ambiguities and uncertainties in the rules;
2. Assure adequate protection to the public in light of developments that have occurred since the rules were last reviewed and amended in 1989 and 1992;
3. Promote confidence in the legal profession and the administration of justice; and
4. Eliminate and avoid unnecessary differences between California and other states, fostering the evolution of a national standard with respect to professional responsibility issues.”

In 2004, the Commission conducted nine (9) daylong meetings, including a meeting at the 2004 State Bar Annual Meeting. At these meetings, the Commission considered amendments to the following Rules of Professional Conduct: 1-100; 1-120; 1-300; 1-310; 1-320; 1-400; 1-500; 1-600; 1-710; 2-100; 2-200; 2-300; 2-400; 3-110; 3-120; 3-200; 3-300; and discussed proposals for new rules addressing: hourly billing records; waiver of the attorney-client privilege; lawyers as third party neutrals in private ADR proceedings; mandatory advice to clients about ADR options; a definition of the term “law firm”; as well as a proposal to adopt the organizational format/rule numbering system used in the American Bar Association’s Model Rules of Professional Conduct.

More than (400) messages were transmitted via the Commission’s E-List, an e-mail distribution group used by the Commission members, liaisons, and other subscribers. The Commission also received informal written comments from 9 interested persons or groups. As part of the 2004 State Bar Annual Ethics Symposium, the Commission presented an educational program highlighting proposed new rules under consideration. Professional Competence staff updated the Commission’s homepage with additional draft rule amendments that have been tentatively approved by the Commission. Staff also designed and tested a weblog application facilitating Internet posting of informal comments and discussion threads on the Commission’s draft rule amendments.

The Standing Committee on Professional Responsibility and Conduct

COPRAC’s primary activity is to develop the State Bar’s advisory ethics opinions. COPRAC also assists the Board of Governors by studying and providing comment on the Rules of Professional Conduct and other laws governing the conduct of attorneys.

In 2004, COPRAC continued to monitor, and participate in, important state and national studies of professional responsibility, including: (1) co-drafting an Ethics Alert article on the SEC attorney conduct rules pursuant to Sarbanes-Oxley; (2) submission of comment to the USPTO on proposed new attorney conduct rules in patent law; and (3) submission of two comment letters to the Rules Revision Commission concerning proposed rule amendments on lawyer advertising and restrictions on sexual relations with clients. In addition, representatives from COPRAC served on the State Bar’s AB 1101 Task Force that developed a new statutory exception to the attorney’s duty of confidentiality and a corresponding Rule of Professional Conduct, and the Discovery Accommodations Working Group and the Discrete Task Committee of the Access to Justice Commission.

Ethics Opinions

COPRAC’s formal ethics opinions guide members in maintaining their ethical standards. The non-binding opinions are developed in response to questions posed by bar groups or individual members. In 2004, COPRAC finalized the following opinions:

Opinions Published in 2004

Formal Opinion No. 2004-165

- ISSUE: 1. What are the ethical responsibilities of a member of the California State Bar who uses outside contract lawyers to make appearances on behalf of the member's clients?
2. What are the ethical responsibilities of the outside contract lawyer who makes the appearances?
- DIGEST: 1. To comply with his or her ethical responsibilities, a member of the California State Bar who uses an outside contract lawyer to make appearances on behalf of the member's client must disclose to his client the fact of the arrangement between the member and the outside lawyer when the use of the outside lawyer constitutes a significant development in the matter. Whether the use of the outside lawyer constitutes a significant development will depend upon the circumstances in each situation. If, at the outset of the engagement, the member anticipates using outside lawyers to make appearances on behalf of the member's client, the member should address the issue in the written fee agreement with the client. If the member charges the outside lawyer's fees and costs to the client as a disbursement, the member must state the client's obligations for those charges in the written fee agreement. In addition, the member remains responsible to the client, which includes responsibility for competently supervising the outside lawyer. Finally, the member must comply with the ethical rules concerning competence, confidentiality, advertising, and conflicts of interest that apply to his or her role in any such arrangement.
2. Like the member who uses an outside contract lawyer to make appearances, the outside contract lawyer must comply with the ethical rules concerning competence, confidentiality, advertising, and conflicts of interest that apply to his or her role in any such arrangement.

Formal Opinion No. 2004-166

- ISSUE: Does an attorney's communication with a prospective fee-paying client in a mass disaster victims Internet chat room violate California Rule of Professional Conduct 1-400?
- DIGEST: While an attorney's communication with a prospective fee-paying client in the mass disaster victims Internet chat room described herein is not a prohibited "solicitation" within the meaning of subdivision (B) of rule 1-400, it violates subdivision (D)(5) of rule 1-400, which bans transmittal of communications that intrude or cause duress. Attorney's communication would also be a presumed violation of Standard (3) to rule 1-400, which presumes improper any communication delivered to a prospective client whom the attorney knows may not have the requisite emotional or mental state to make a reasonable judgment about retaining counsel.

Formal Opinion No. 2004–167

- ISSUE: Is it professional misconduct for an attorney to use a firm trade name or other professional designation which may be mistaken for a governmental entity or to use a current or former governmental title in promoting the attorney's law practice?
- DIGEST: An attorney may not use a firm trade name or other professional designation that implies, or has a tendency to confuse or mislead the public into believing, that the firm is connected to a governmental agency. An attorney may accurately describe a current governmental office held by the attorney in a firm resume or brochure, but may not use a current title in the firm name, letterhead or business card. The same analysis applies to a former governmental title that is not qualified with the use of the word "former" or "retired" or similar indication that the office is no longer held. Even truthful statements about a formerly held office may still be found improper on a case-by-case basis under rule 1-400 (D)(2) or (3) if they tend to confuse, deceive, or mislead the public.

Opinions Circulated for Public Comment Period in 2004

Proposed Interim Opinion No. 97-0007 (90-day Comment Period deadline: September 15, 2004)

- ISSUE: What are the ethical obligations of an attorney representing indigent criminal defendants who believes that his or her caseload is too large, or other resources are insufficient, to permit him or her to provide competent representation?
- DIGEST: Each attorney has an ethical duty to represent his or her clients competently. This duty applies to attorneys representing indigent criminal defendants, whether the attorney is a defender heading an office (i.e., a public defender in state court or a federal or community defender in federal court), a deputy defender (i.e., a deputy public defender or a deputy federal or community defender), or a private appointed attorney. (See Section I., Introduction.)
- A defender heading an office and a private appointed attorney each bear ultimate responsibility for addressing ethical concerns about the client matters that he or she may assume. The defender and the private appointed attorney are each responsible for resolving a workload issue that causes an inability to carry out the representation competently. Measures to address such problems range from declining new cases, seeking continuances and, in appropriate circumstances, seeking to withdraw. (See Sections I.A., B., II.)
- A deputy defender, by contrast, acts as a subordinate of the defender heading the office. If the deputy defender believes that he or she may not be able to provide competent representation, the deputy defender should bring to the defender's attention his or her belief, undertaking a balancing of his or her duties to clients and his or her subordinate role vis-à-vis the defender. If the defender agrees, the defender should then take steps to resolve the problem. If the defender disagrees, the deputy defender may generally satisfy his or her ethical duties by deferring to the defender's decision. If the deputy defender believes that he or she may not defer to the defender, if the deputy defender further believes that he or she cannot provide competent representation, and, if the deputy defender has exhausted all available remedies, the deputy defender may have to decline to proceed. (See Section I.A.)

When an attorney representing indigent criminal defendants believes that he or she has insufficient resources, other than the attorney's own time, to provide competent representation, the attorney must take appropriate steps to seek such resources. Indigent criminal defendants have a right to certain defense services at public expense as a necessary corollary to effective assistance of counsel. Beyond seeking such services, the attorney must take such steps as are appropriate depending on whether he or she is a defender heading an office, a deputy defender, or a private appointed attorney. (See Section I.B.)

When an attorney representing an indigent criminal defendant moves to withdraw because the attorney believes he or she lacks adequate time or resources to provide competent representation, the motion may be denied. In that event, when the attorney is ordered to proceed to trial, he or she is bound to do so to the best of his or her ability. The attorney's ethical duty of competent representation would include making an appropriate record of the circumstances under which the trial proceeds for subsequent review. (See Section III.)

Finally, if an attorney representing an indigent criminal defendant moves to withdraw or, after denial of such a motion, proceeds to trial with what he or she believes are inadequate resources or time to provide competent representation, the attorney must inform his or her client of such an event because each is a significant development in the matter. Likewise, if the attorney is a deputy defender who decides to resign because he or she believes that adequate resources or time to provide competent representation is lacking, the deputy defender must inform his or her client of such a decision, if the deputy defender is able to do so, but if not, the defender heading the office must furnish the information, because this event too is a significant development in the matter. (See Section IV.)

Proposed Interim Opinion No. 02-0004 (45-day Comment Period deadline: October 4, 2004)

ISSUE: Is it professional misconduct for an attorney to use a firm trade name which may be mistaken for a governmental entity or to use a current or former governmental title in promoting the attorney's law practice?

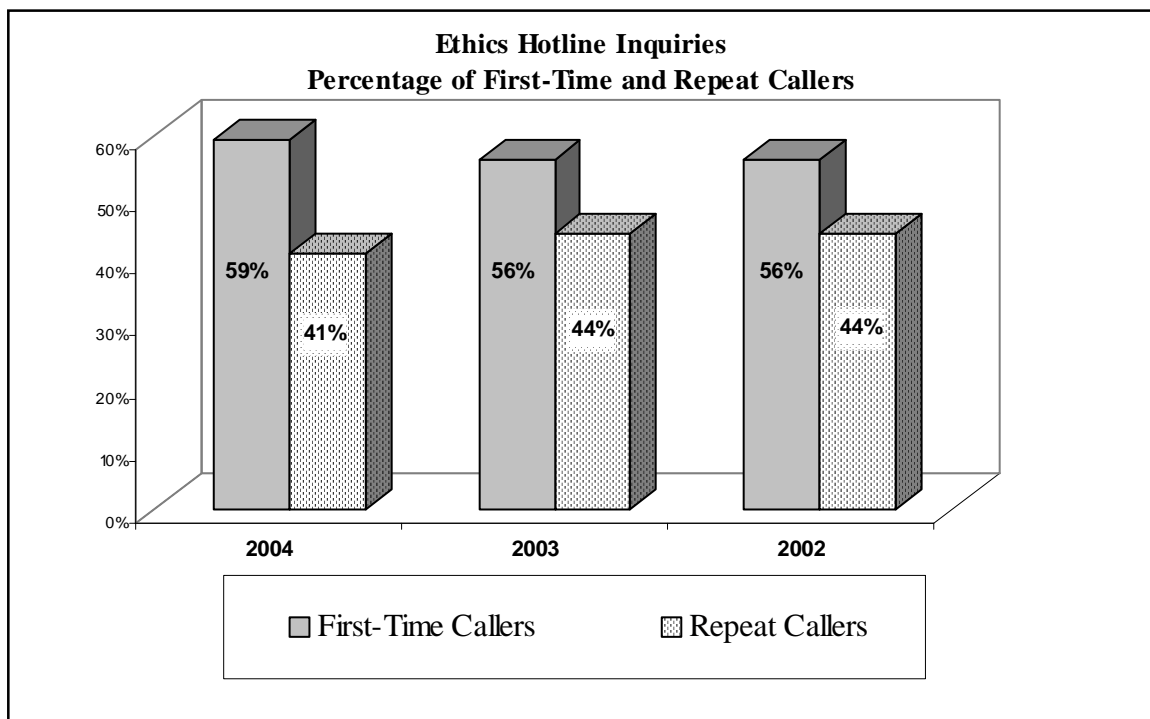
DIGEST: An attorney may not use a firm trade name that implies, or has a tendency to confuse or mislead the public into believing that the firm is connected to a governmental agency. An attorney may accurately describe a current or former governmental office held by the attorney in a firm resume or brochure, but may not use the title in the firm name or letterhead. Listing a governmental title on law firm letterheads misleadingly implies a direct connection between the firm and the public office held.

Ethics Hotline

The State Bar's toll-free statewide confidential service (1-800-2-ETHICS) provides California attorneys with information and research assistance on ethical questions. In 2004, Ethics Hotline staff answered 21,831 calls and distributed 1,214 packets of local bar association and State Bar ethics opinions to interested persons, and made approximately 6,500 referrals to online resources posted at the State Bar's website. The chart provided below identifies the types of ethical issues most frequently raised by the Ethics Hotline inquirers in the year 2004.

2004 Percentage of Frequently Named Ethics Issues	
Primary Ethics Issues	Percentage
Fees and Costs for Legal Services	19.2%
Conflicts of Interest	15.8%
Attorney Advertising and Solicitation	9.2%
Communications with Clients, Adverse Party and Others	8.7%
Misconduct/Moral Turpitude/Trial Conduct	7.8%
Clients Files	7.5%
Client Confidential Information	7.0%

The Ethics Hotline staff obtains voluntary demographic data from the Hotline inquirers. Among the information obtained is whether the inquirer is a first-time or repeat caller to the Ethics Hotline. This information is provided in the chart below and includes data from 2004 and the two preceding years.



Publications

California Compendium on Professional Responsibility (Compendium). The State Bar publishes the Compendium, a compilation of local, state and national ethics information. It is updated annually. In 2004, 26 Compendium updates and new subscriptions were sold. The 2004 update was completed at the close of the year and will be circulated during the first half of 2005. The electronic PDF copy of the Compendium index has been downloaded 13,000 times since May 2004 when these statistics became available. Free online availability of the full text of State Bar ethics opinions and the Compendium index may be contributing to decreased subscriptions.

California Rules of Professional Conduct and State Bar Act (Publication 250). Publication 250 is a convenient resource book which includes: The California Rules of Professional Conduct (past and present); the State Bar Act; California Rules of Court related to the State Bar and members of the State Bar; various statutes relating to discipline and attorneys and the duties of members of the State Bar; the Minimum Continuing Legal Education Rules and Regulations; and the Rules and Regulations Pertaining to Lawyer Referral Services (Including Minimum Standards for a Lawyer Referral Service in California). In 2004, approximately 2,450 copies of Publication 250 were sold. The electronic PDF copy of the current California Rules of Professional Conduct has been downloaded 5,500 times since May 2004 when these statistics became available. Free online availability of the key components of this publication may be contributing to decreased sales.

Handbook on Client Trust Accounting for California Attorneys ("Handbook"). The Handbook is a practical guide created to assist attorneys in complying with the record keeping standards for client trust accounts, which went into effect on January 1, 1993. The Handbook includes: a copy of the standards and statutes relating to an attorney's trust accounting requirements; a step-by-step description of how to maintain a client trust account; and sample forms. In 2004, 640 copies of the Handbook were sold.

An electronic PDF copy of the 2003 Handbook, posted at the Bar's website, has been downloaded 25,000 times since May 2004 when these statistics became available.

Ethics School Program Videotape. This video program was produced in 1994 and was designed to offer the highlights of the State Bar's Ethics School Program touching on the following four topics: formation of the attorney/client relationship; withdrawal from employment; client trust accounting; and reportable actions. The program is approved for one hour of MCLE credit in legal ethics.

Special Projects

Annual Statewide Ethics Symposium

On April 24, 2004, COPRAC held a Statewide Ethics Symposium at the Practising Law Institute in San Francisco. The event brought together experts from all aspects of the professional responsibility field including: ethics professors, judges, ethics consultants, State Bar staff, local ethics committee leaders, expert witnesses, and representatives of the defense bar. The symposium's scheduled topics, which were presented by a diverse group of expert panelists, featured: "A Brief History of the Attorney-Client Relationship"; "Sarbanes—Oxley in the Real World: Practical Approaches for California Lawyers"; "New Duties on the Horizon? A Discussion with the Commission for the Revision of the Rules of Professional Conduct"; "AB 1101's New Death or Serious Bodily Injury Exception to Confidentiality: Has Tarasoff Come to the Legal Profession?" and "U.S. Department of Justice Policies on Eavesdropping, Charging Decisions and Waiver of Attorney-Client Privilege: Impairment or Necessary Redefinition of the Attorney-Client Relationship?" Each of the panels included interactive sessions providing a unique opportunity for high-level discussion. In addition to the panels, 2004 State Bar President, Anthony Capozzi, provided opening remarks, and the Honorable Candace D. Cooper, Presiding Justice, California Courts of Appeal, 2nd District, delivered the keynote address.

Annual Meeting Programs

In October 2004, the Office of Professional Competence administered six ethics and/or competence related educational programs at the State Bar's Annual Meeting in Monterey. The topics covered were: "Recent Significant Developments Affecting the Law of Lawyers"; "How to Survive the Practice of Law and Live to Tell the War Stories"; "Other People's Money: An Overview of Client Trust Accounting"; "So You Think You Know Your Rules of Evidence? A Showdown on Civil and Criminal Rulings" (co-sponsored with the American Inns of Court); "Sarbanes-Oxley in the Real World—Practical Approaches for California" (co-sponsored with the State Bar Business Law Section); and "Pandora's Box: AB 1101 and the Ethical Rules and Changes to the Attorney-Client Relationship" (co-sponsored with the State Bar Family Law Section).

Local and Specialty Bar Association Outreach Programs

In cooperation with local and specialty bar associations, staff conducted several outreach ethics programs at various locations. The groups who received presentations included: the Sonoma County Bar Association; the American Society of Trial Consultants; and the Center for Citizen Initiatives. In addition, COPRAC participated in three workshops presented by the State Bar Ethnic Minority Relations Committee. The Workshops were held on November 30 (Los Angeles), December 6 (San Francisco) and December 14 (San Diego).

Competence Resources on the State Bar Website

In 2004, the ethics and competence related resources on the Bar's website were updated and enhanced, including the following: 1) Ethics Hotline online newsletter was updated with new entries on recent developments in professional responsibility and two feature articles, "Ethics Alert" re Sarbanes-Oxley attorney conduct rules, and "An Ethics Primer on Limited Representation"; 2) year 2004 updates to the California Rules of Professional Conduct and The State Bar Act and other provisions governing the duties of attorneys; 3) COPRAC draft opinions and rule amendments circulating for public comment; and 4) COPRAC formal advisory ethics opinions.

Since May, 2004 when statistics became available, the following website activity was tracked: 20,000 hits to the Ethics Information page; 10,000 hits to the Ethics Opinions pages; 10,000 hits to the Ethics Hotliner—Online Newsletter pages; 7,000 hits to the Ethics Hotline page; 4,300 to the SEC Alert co-written by COPRAC and the Corporations Committee of the Business Law Section; 5,500 to the COPRAC page; and 5,000 to the Rules Revision Commission page.

GENERAL FUND AND MEMBERSHIP FEES

In 2004, the annual membership fee for active members was \$390. Members who declared that their annual income from the practice of law was less than \$40,000 were eligible for a waiver of 25 percent of the annual membership fee and if their total annual income from all sources was less than \$30,000 they were eligible for a waiver of 50 percent of the fee.

Most of the annual membership fee supports the State Bar's General Fund. A portion of the annual membership fee is assessed for the Client Security Fund (\$35), for the Building Fund (\$10), and for the Lawyer Assistance Program (\$10). The annual membership fee does not support the program for admission to the State Bar, which is a self-supported program. The annual membership fee does not support other programs considered non-germane to the practice of law; those are supported by voluntary contributions.

The State Bar's General Fund provides resources to operate programs that serve both the public and the Bar's active and inactive members. These programs include the attorney disciplinary system, administration of justice, governance, administration of the profession, program development, and communications. The charts below show the annual expenditures for General Fund programs and the sub-programs within the Discipline Program that are supported by membership fees. For 2004, the Probation Unit is listed as a sub-program of Discipline. This sub-program was previously reported as part of the Office of Chief Trial Counsel. In 2003, the State Bar began allocating administrative costs to General Fund programs and sub-programs to better represent the true cost of these operating units. In prior years no such allocation was made, and only direct program costs were reported.

GENERAL FUND 2004 Actual Expenditures (Dollars in Thousands)		
Program	Amount	Percentage
Discipline	\$39,941	82.57%
Administration of Justice	458	0.95%
Governance	3,748	7.75%
Administration of the Profession	471	0.97%
Program Development	1,156	2.39%
Communications & CBJ	2,600	5.37%
TOTAL GENERAL FUND-PROGRAM EXPENSES	\$48,374	100%

DISCIPLINE 2004 Actual Expenditures (Dollars in Thousands)		
Sub-Program	Amount	Percentage
Office of Chief Trial Counsel	\$29,686	74.32%
State Bar Court	7,113	17.81%
Probation Unit	587	1.47%
Fee Arbitration Program	620	1.55%
Professional Competence	1,935	4.85%
TOTAL DISCIPLINE-SUB PROGRAM	\$39,941	100.00%

GLOSSARY

Admonition

A written non-disciplinary reprimand issued by the Office of the Chief Trial Counsel or the State Bar Court pursuant to Rule 264, Rules of Procedure of the State Bar of California.

Agreement in Lieu of Discipline

An agreement between the member and the Office of the Chief Trial Counsel in lieu of disciplinary prosecution, pursuant to Business and Professionals Code sections 6068(l) and 6092.5(i).

Backlogged complaints

Complaints that have been pending in investigation longer than six full months from the date of receipt (12 months for complex cases) without dismissal, admonition of the member involved or the forward of a completed investigation for prosecution.

Client Trust Accounting School

A four-hour program designed to provide practical information to attorneys on the proper maintenance and handling of client trust accounts.

Complaint

A communication, which is found to warrant an investigation of, alleged misconduct of a member, which, if the allegations are proven, may result in discipline of the member.

Complaint - Held

A complaint, for which a status of the case has been completed, reviewed and approved and which is being held pending receipt of remaining Statements of the Case [see below] on the same member.

Complaint - In Abeyance

A complaint temporarily not being worked on for a specific reason, such as pending acceptance of an attorney's resignation by the Supreme Court.

Complaint - Open

A complaint being worked on.

Conviction Referral

A formal disciplinary proceeding following an attorney's criminal conviction commenced by a referral order from the State Bar Court Review Department directing the Hearing Department to hold a hearing, file a decision and recommend the discipline to be imposed, if any, or take other action on the issue or issues stated in the order.

Disbarment

A disciplinary action that prohibits an attorney from practicing law in the state. The attorney's name is stricken from the Roll of California Attorneys.

Dismissal

A proceeding closed by the Office of the Chief Trial Counsel or the State Bar Court for a specific reason, such as no merit or insufficient evidence.

Ethics School

An eight-hour program that focuses upon general principles of professional responsibility and law practice management and is designed to educate attorneys in methods they can utilize to avoid complaints being made to the State Bar.

Finality Rules

California Supreme Court Rules that empower the State Bar Court to handle a number of matters - including placing convicted attorneys on interim suspension in appropriate instances - that formerly were Supreme Court responsibilities. The Rules also provide that, when a member does not request Supreme Court review after pursuing a State Bar Court appeal, the State Bar Court's recommendations are adopted by the Supreme Court as its final order unless the high court decides on its own to review the case.

Inquiry

A communication concerning the conduct of a member of the State Bar received by the Office of the Chief Trial Counsel which is designated for evaluation to determine if any action is warranted by the State Bar.

Involuntary Inactive Enrollment

The transfer of an attorney to inactive status (1) after the attorney is judged to present a substantial threat of harm to clients or the public, or (2) after the attorney is judged to be unable to practice without danger to clients or the public because of a disability, or (3) for other reasons allowed by state law. An attorney on inactive status cannot practice law.

Notice of Disciplinary Charges

A document filed in State Bar Court containing formal charges against a member.

Private Reproval

A censure or reprimand issued by the Supreme Court or the State Bar Court which is not a matter of public record unless imposed after the initiation of formal disciplinary proceedings. The reproval may be imposed with duties or conditions.

Pro Tempore Hearing Judges

A panel of specially trained lawyers or retired judges who serve as judges of the State Bar Court Hearing Department on a temporary, as-needed basis.

Probation

A status whereby an attorney retains the legal ability to practice law subject to terms, conditions and duties for a specified period of time.

Public Reproval

A censure or reprimand issued by the Supreme Court or the State Bar Court which is a matter of public record. The reproval may be imposed with duties or conditions.

Reinstatement

Readmission by the Supreme Court to the practice of law and to membership in the State Bar of a former member who resigned or was disbarred. The former member must demonstrate rehabilitation and present moral qualifications as well as ability and learning in the law.

Request for Further Proceedings

A request from a complaining witness after being advised that the complaint has been dismissed or the member has been admonished.

Resignation Tendered with Charges Pending

A written relinquishment of the right to practice law and resignation as a member of the State Bar by a member against whom disciplinary charges are pending. Supreme Court acceptance of a resignation is required to make it effective, but as soon as a member submits a resignation in proper form, the member is transferred to inactive status and cannot practice law.

Resource Letter

A Resource Letter may be issued where there is a probable violation or a potential for a future violation of the Rules of Professional Conduct and/or the State Bar Act, which is minimal in nature and would not lead to discipline of the member. The member is referred to various resources, which may assist the member in avoiding future problems and/or the filing of complaints against him or her in the future.

Statement of the Case

An investigator's written report of information and evidence submitted to an Office of the Chief Trial Counsel attorney for further action.

Stipulation

A agreement between the member and the Office of the Chief Trial Counsel regarding a statement of facts, conclusions and/or disposition filed by the Office of the Chief Trial Counsel in the State Bar Court.

Suspension

A disciplinary action that prohibits an attorney from practicing law or from holding himself or herself out as a lawyer for a period of time set by the California Supreme Court.

Termination

A proceeding closed due to an external cause, such as death of the member, disbarment in a separate matter or resignation with charges pending.

Warning Letter

A Warning Letter may be issued when there is a probable violation of the State Bar Act or the Rules of Professional Conduct, which is minimal in nature, does not involve significant harm to the client or the public and does not involve the misappropriation of client funds.